IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 2409 of 2005

Between:

Ch.Sathaiah, S/o. Venkata Ram Narsaiah,
District Co.op.Central Bank Ltd., Narsampet Branch,

Warangal District.

..... PETITIONER

AND

1 District Cooperative Central Bank Ltd.,

rep., by its General Manager, Warangal.
2 The General Manager, District Cooperative

Central Bank Ltd., Warangal.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction particularly one in the nature of writ of mandamus declaring the action of the respondents in continuing the disciplinary proceedings after the superannuation of the petitioner w.e.f.
31-3-2004 and not releasing all the retirement benefits including the two increments due to the petitioner as illegal, without jurisdiction and in violation of Articles 14, 16 and 300-A of the Constitution of India and consequently direct the respondents to release all the retirement benefits to the petitioner forthwith and to pass such and further order or order as may be deemed fit and proper in the interest of justice.

Counsel for the Petitioner : Mr.S.LAKSHMA REDDY

Counsel for the Respondents : Mr.P.NAGESWARA SREE

The Court at the stage of admission made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the action of the respondents in not releasing and paying the retiral benefits including two increments, which were due to him before his retirement on 31-03-2004.

According to the petitioner, he was appointed as a Staff Assistant in the respondent-bank on 01-03-1977. It is stated that the petitioner retired on superannuation on 31-03-2004, in the same position, in which he was recruited. It is also stated that before his retirement, a charge memo was issued on 07-02-2004 on certain alleged irregularities, for which he submitted an explanation on 26-03-2004. Thereafter, no orders are passed, but the petitioner was allowed to retire on 31-03-2004. After his retirement, though he is entitled for the retiral benefits, such as gratuity, and leave encashment etc., the respondents did not release the entire benefits, but only paid 50% on the ground of pendency of the enquiry.

Learned counsel for the petitioner contends that there are no specific provisions under the Rules or Bye-laws of the respondent-bank, whereby it can continue the disciplinary proceedings initiated against the petitioner. Therefore the respondent-bank is not entitled to continue with the disciplinary proceedings. Hence, the petitioner is entitled for all the terminal benefits, apart from the two increments, which were due to him and which were not released without any specific order.

Though a counter-affidavit is filed disputing and denying the claims of the petitioner, but however, the respondent-Bank did not show any specific Rule or Bye-law under which, it is entitled either to continue the disciplinary proceedings after the retirement of an employee or even to withheld the increments, without passing any specific order.

Heard both sides and considered the material available on record.

In view of the absence of any specific Rule or Bye-law to continue the disciplinary proceedings initiated against a retired employee of the respondent-bank, there is no justification for the respondent-bank in withholding the retiral benefits. Even with reference to the increments due to the petitioner, which were withheld by the respondent-bank, there is no specific Rule or Bye-law, or any order passed by the respondent-Bank denying the benefit of increments.

Under the above circumstances, the petitioner is entitled for the benefit of the increments to which he was entitled.

Further, an identical issue was the subject matter of decision of the Apex Court in the case of ***"BHAGIRATHIJENA v. BOARD OF DIRECTORS, O.S.F.C."***[1] and also an unreported judgment of the Division Bench of this Court in "***THE ADILABAD DISTRICT CO.OPERATIVE CENTRAL BANK LTD., REP.BY IT'S GENERAL MANAGER AND ANOTHER v. D. HANUMANTHA RAO"***.

In the light of the above decisions, the writ petition is liable to be allowed and the same is accordingly allowed directing the respondents to release not only the increments, which were due to the petitioner before his retirement, but also to pay the entire retiral benefits, within a period of eight weeks from the date of receipt of a copy of this order. No order as to costs.

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S.ANANDA REDDY, J.

Dated: 09-06-2005.

Rns/va

To

1 The General Manager,

District Cooperative Central Bank Ltd.,

Warangal.

2 Two CD copies.